

/

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
CIVIL WRIT PETITION NO. 494 OF 2012

IN THE MATTER OF:

Justice K.S. Puttaswamy (Retd.) & Anr.

..... Petitioner

Versus

Union of India and others

..... Respondents

AFFIDAVIT ON BEHALF OF THE RESPONDENT – STATE OF
ANDHRA PRADESH PLACING ON RECORD THE RESPONSE OF
THE STATE GOVERNMENT TO THE ABOVE WRIT PETITION AND
CONNECTED CASES

I, Dr. P.V. Ramesh, IAS, S/o Subba Rao, aged about 52 years working as Principal Secretary to Government (R&E), Finance Department in the Government of Andhra Pradesh, Hyderabad do hereby solemnly affirm and declare as under:-

- 1) That in my abovementioned official capacity I am well conversant with the facts of the case as derived from official records and competent to swear the present affidavit.
- 2) That in the above writ petition the petitioners have sought to restrain the Government of India from issuing Aadhaar numbers and linking them to benefits under welfare schemes. The following are the main contentions of the Petitioners:
 - i) The National Unique Identification Authority of India Bill is yet to be passed by the Parliament. Hence, there is no statutory backing to the Aadhaar project.
 - ii) Aadhaar violates fundamental rights including right to privacy and that there is a security risk to the data being collected.

- iii) Benefits under welfare schemes cannot be denied to those without Aadhaar.
- 3) That the response of the Government of Andhra Pradesh on the said contentions of the petitioners is as follows:
 - (I) **Response to contention (i) that the National Unique Identification Authority of India Bill is yet to be passed by the Parliament. Hence, there is no statutory backing to the Aadhaar project.**
 - (i) The Government of Andhra Pradesh has been implementing a number of schemes for the welfare of people. Aadhaar is found to be an effective instrument to streamline the delivery of benefits to people without the involvement of any middlemen, eliminate leakages and to ensure that the benefits of Central and State Government schemes reach the intended beneficiaries in a timely manner.
 - (ii) It is the responsibility of the Government to discharge its duties and responsibilities in an orderly, effective and transparent manner. It is necessary for the Government to organize the delivery of public services following sound management principles, reengineer processes at regular intervals taking into account emerging developments and to make use of modern technology to improve efficiency, transparency and accountability in the delivery of public services. The Aadhaar project and its application to the delivery of welfare schemes is a considered decision of the Government after taking into account the benefits that will accrue. Once fully operational, Aadhaar linkage is likely result in huge saving of public money which can be utilised for meeting other deserving needs of people.
 - (iii) In an Aadhaar based authentication project for the delivery of ration in East Godavari and Hyderabad districts implemented by the Consumer Affairs, Food and Civil Supplies Department, savings have been observed to the extent of nearly 17 % in rice and 24% in kerosene. Encouraged by these results, the State Government has planned to use Aadhaar online authentication for all the 2,700 fair price shops in East Godavari district. There are also plans to extend this to the entire State in a phased manner.

- (iv) The Government of Andhra Pradesh had started using biometrics even prior to the launch of Aadhaar project in the form of two finger prints stored on Smart Cards for identification and authentication of beneficiaries of schemes under the Rural Development Department. The Consumer Affairs, Food and Civil Supplies Department has collected IRIS of a number of ration card holders to streamline the Public Distribution System (PDS) in the State. These initiatives have been discontinued in favour of Aadhaar as it offers a more secure, online, reliable and standardised authentication platform for use by Departments of the State Government for delivery of services to beneficiaries under various schemes. The Aadhaar database has given a great impetus to the existing ICT initiatives undertaken by the Government of Andhra Pradesh. It helps consolidation of all resident databases in the State Resident Data Hub (SRDH) and integration of databases in respect of schemes of all Departments.
 - (v) The draft Bill for conferring statutory status to the Unique Identification Authority of India (UIDAI) has already been introduced in Parliament and it is likely to be passed shortly.
- (II) **Response to contention (ii) to the effect that Aadhaar violates fundamental rights including right to privacy and that there is a security risk to the data being collected.**
- (i) Andhra Pradesh has been in the forefront of Aadhaar enrolments. The State has put in place a robust administrative structure for overseeing the implementation of UID project in the State in the form of State UID Implementation Committee headed by the Chief Secretary with Principal Secretaries of Departments concerned, State Head, National Informatics Centre (NIC), Deputy Director General, Unique Identification Authority of India, Hyderabad as Members. Adequate precautions have been taken to ensure utmost secrecy of the data collected at the time of enrolment. Commissioner, Civil Supplies and the Information, Technology and Communications Department are the Registrars for enrolments from the State Government. The District Collectors and Joint Collectors are designated as Additional and Joint Registrars, respectively for the UID project for effective monitoring at the district level. The

4

enrolment agencies are carefully screened for technical and financial capabilities before their empanelment by the UIDAI. Only empanelled agencies are engaged by the Registrars for Aadhaar enrolment. The operators, supervisors and other personnel manning the enrolment centres are selected through online examination conducted by a recognised testing agency. The documents submitted by the citizens as proof of identity and residence are thoroughly scrutinised to eliminate the possibility of non-citizens being enrolled. The enrolment data collected is encrypted Ab initio. Each machine used at the enrolment centres is identified by a unique number and the data is synched with Centralised database which is not connected to any other domain databases so as to secure the Aadhaar database from any cyber threats. Thus, there is no possibility of any agency other than the UIDAI having access to the data and there is no security risk for the data collected.

(ii) The enrolment under Aadhaar is voluntary and there is no coercion.

(III) Response to contention (iii) to the effect that benefits cannot be denied to those without Aadhaar.

(i) In Andhra Pradesh State, Aadhaar enrolments began as early as August 2010 after conducting proof of concept studies for enrolments. As of 28th December, 2014, 9.1 crore people have been enrolled and 7.91 crore Aadhaar numbers have been generated in the State. Aadhaar generation is 93 percent of the population as per 2011 census. Currently, 1,832 enrolment centres are functioning across the State to saturate enrolments. In addition, 1,400 permanent enrolment centres are being set up covering all the Mandals in the State to facilitate enrolment of uncovered population without any inconvenience. Andhra Pradesh Government is planning to saturate all residents in the State for the generation of Aadhaar so that Aadhaar functions as a proof of identity and proof of residence. This will facilitate extension of benefits under various schemes to the marginalised and disadvantaged sections, migrants, women and children more efficiently.

(ii) It is the stated policy of the Government not to deny benefits to eligible people without Aadhaar. Exception handling mechanisms

5

have been put in place while adopting Aadhaar enabled service delivery. This has been made clear in GO.Ms.No.103, Finance (FC-I) Department dated: 25.4.2013 issued by the Government. A true photocopy of the said GO.Ms.No.103 Finance (FC-I) Department dated: 25.4.2013 is annexed hereto as Annexure R-1. Reasonable time has been given to beneficiaries without Aadhaar.

DEPONENT

VERIFICATION

That I, Dr. P.V. Ramesh, IAS, Principal Secretary to Government (R&E), Finance Department the abovementioned deponent do hereby verify that the facts stated in paragraphs 1 to 3 (I to III) hereinabove are true to my knowledge and belief and as derived from official records and no part of it is false and nothing material is concealed there from.

Verified at Hyderabad on this 21st day of January, 2014.

DEPONENT

6

Annexure R-1

GOVERNMENT OF ANDHRA PRADESH ABSTRACT

Direct Benefit Transfer Scheme (DBT) – Procedure for Direct Transfer of Benefits
through Aadhaar Payment Bridge (APB) – Orders - Issued.

FINANCE (FC-I) DEPARTMENT

GO Ms No. 103

Dated: 25-04-2013

ORDER:

1. The Government of India has decided to introduce Direct Benefit Transfer (DBT) Scheme in Hyderabad, Ranga Reddy, Ananthapur, Chittoor and East Godavari districts on pilot basis with specific reference to pre-matric, post-matric and special scholarships being administered by the Central Ministries of Social Justice and Empowerment, Human Resource Development, Tribal Affairs, Minority Affairs, Health and Family Welfare and Labour and Employment from 1st January 2013. The list of directly administered Central schemes brought under DBT is attached to this order as Annexure-I.
2. As per the guidelines issued by the Government of India, in all cases where Aadhaar number has been seeded into the beneficiary database by the Implementing Department as well as in the banks' Core Banking Solution (CBS), Payment Advice should be made through Aadhaar Payment Bridge (APB). In this context, the Government of Andhra Pradesh has decided to introduce the system of transferring benefits through the Aadhaar Payment Bridge for those schemes where the funds are administered by the State Government (Annexure-II). This system of direct transfers will be introduced on pilot basis in Hyderabad, Chittoor and East Godavari districts for the schemes specified in Annexure-II. The Government intends to extend DBT for these schemes to the entire State based on the experience gained from the above three districts.
3. Accordingly, Government hereby order that all payments relating to the schemes listed in Annexure- II of this Order be done through APB for those beneficiaries whose Aadhar numbers are seeded in the database as well as CBS with immediate effect in the districts of Hyderabad, Chittoor and East Godavari. Those beneficiaries whose Aadhar numbers are yet to be seeded either in the beneficiary database or CBS will continue to receive payment through the existing E-pass system for ninety days after which all payments shall be effected through APB.
4. Registration with NPCI: One of the requirements for migrating to APB platform is that the Implementing Departments are required to apply for APB User Registration with National Payments Corporation of India (NPCI) through their Sponsor Bank for each scheme separately in the format given at Annexure-III. Therefore, the Principal Secretaries of Departments concerned with the implementation of schemes listed in Annexure-II are hereby ordered to work out the modalities and to seek registration with NPCI along with the Sponsor Bank immediately.

7

5. Procedure for Payment Authorisation by the Treasury: All Departments migrating to APB platform are directed to submit their bills to the Treasury in the usual Bill format along with an electronic file containing details of the Aadhaar number, scheme reference number and the amount to be paid to the Sponsor Bank in the format placed at Annexure-IV. In case of beneficiaries whose Aadhaar numbers have not been seeded in the Department's beneficiary database or in the bank accounts, the Departments shall submit a separate bill to the treasury along with bank account details of beneficiaries in Annexure-V. The Treasury after passing the bill shall send Payment Advice to the Sponsor Bank in an electronic form, in XML/ Excel sheet duly authenticated containing a Unique Transaction Reference Number, beneficiary Aadhaar number and the amount.

5. In case of those without Aadhaar numbers, the Sponsor Bank may make the payment based on the bank account details using ECS or NEFT until further orders. The Sponsor Bank will prepare the input file for APB containing a proper file naming convention, header record and detailed individual records. The bank after execution of payment advice shall send the confirmation of payment or, in case of failed transactions, the details thereof, to the Implementing Department concerned and to the Treasury that sent the payment Advice.

6. All the Departments concerned, Treasuries and PAOs shall follow these instructions scrupulously. Convenor, State Level Bankers' Committee shall ensure that the procedures laid down in this GO are followed by the banks concerned.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

MINNIE MATHEW
CHIEF SECRETARY TO GOVERNMENT

To
All Departments in the Secretariat.
All District Collectors.
All Heads of Departments.
The Director of Treasuries and Accounts, AP, Hyderabad.
The Pay and Accounts Officer, AP, Hyderabad.
The Convenor, SLBC, Hyderabad/ all Lead Banks.
The DDG, UIDIA, Hyderabad.
The Principal Accountant General, AP, Hyderabad.
SF/SC

// Forwarded by Order//

Section Officer

Annexure -I
DIRECT BENEFIT TRANSFER SCHEME
SCHEMES ADMINISTRED BY CENTRAL GOVERNMENT

Sl. No	Ministry/ Department	No. of Schemes		CS/ CSS	Name of the Schemes
1	M/o Social Justice & Empowerment	2	1	CS	National Overseas Scholarship for SC Students
			2	CS	Top class Education Scheme
2	M/o Human Resources Development, D/o Higher Education	3	1	CS	Scholarship to Universities/ College students
			2	CS	Fellowship Schemes of UGC
			3	CS	Fellowship Schemes of AICTE
3	M/o Human Resources Development, D/o School Education & Literacy	2	1	CS	National Means cum Merit Scholarship
			2	CS	National Scheme for Incentive for the girl child for secondary Education.
4	M/o Tribal Affairs	2	1	CS	Top Class Education System
			2	CS	Rajiv Gandhi National Fellowship
5	M/o Minority Welfare Department	1	1	CS	Maulana Azad National Fellowship
6	M/o Women and Child Development	1	1	CS	Dhanalakshmi Scheme
7	M/o Labour and Employment	5	1	CS	Scholarship to the Children to Beedi workers
			2	CS	Housing subsidy to Beedi Workers
			3	CSS	Stipend to children in the special schools under the child labour project.
			4	CS	Stipend to trainees under the scheme welfare of SC/ST job seekers through coaching, Guidance and Vocational Training
			5	CSS	Payment of stipend to trainees under Scheme of Skill Development in 34 District affected by Left Wing Extremism(LWM)
	Total	16			

Chief Secretary to Government

Annexure-II
DIRECT BENEFIT TRANSFER SCHEME
SCHEMES ADMINISTRED BY STATE GOVERNMENT

Sl. No	Department	Name of the Schemes
1	Social Welfare	Post Matric Scholarship for SC Students.
		Pre-Matric Scholarship for SC Students
		Pre-Matric Scholarship for Children of those engaged in unclean occupations
		Upgradation of merit of SC Students
2	BC Welfare	Post Matric Scholarship for EBCs
		Pre-Matric Scholarship for OBC Students
		Post Matric Scholarship for OBCs
3	Tribal Welfare	Pre-Matric Scholarship for ST Students
		Post Matric Scholarship for ST Students.
4	Minority Welfare	Post Matric Scholarship Scheme
		Pre-Matric Scholarship Scheme
		Merit cum Means Scholarship Scheme
5	Health Medical & Family Welfare	Janani Suraksha Yojana
6	Women and Child Welfare	Indira Gandhi Matritva Sahyog Yojana (IGMSY)

Chief Secretary to Government

Annexure-III

Format of Registration for User with Sponsor Bank

User's Letter Head.

Application for affiliation with Sponsor Bank for APBS / NACH facilities

We _____ (Name of the User) with Registered Office / Head Office at _____ have agreed to participate in the Aadhaar Payment Bridge System (APBS) / National Automated Clearing House (NACH), schemes by National Payments Corporation of India (NPCI), with registered office at C9-0, RBI premises, Bandra Kurla Complex, Bandra East, Mumbai 400051, through our Sponsor Bank _____ (Name of Sponsor Bank) and for that purpose, we hereby provide following details to the NPCI:

1. Types of transactions sought to be put through NPCI while availing APBS / NACH services:

Sr. No.	Type of Transaction	Frequency	Approximate Volume

2. (i) We have an established Know Your Customer (KYC) / Anti Money Laundering (AML) process and we shall comply with all the Reserve Bank of India norms on KYC and AML.

(ii) We shall offer APBS / NACH only to those customers who undergo our KYC / AML verification processes.

3. Complaints from beneficiaries, if any, relating to transactions processed through APBS / NACH will be pursued by us with the respective banks/branches in co-ordination with the Sponsor Bank.

4. We would ensure necessary funding of our accounts with our Sponsor Banks to ensure seamless flow of APBS / NACH transactions.

Date: -

Authorized Signatory of the User

Name and designation of Authorized Signatory with Company seal

-----For Office Use-----

Unique Identification Code:

Authorized Signatory of Sponsor Bank

Annexure-IV
Format for Sending Payment Advice Based on Beneficiaries Aadhaar

S.No	Filed	Data Type	Length	Format	Mandatory/Optional	Description
1	Beneficiaries Aadhaar Number	Numeric	12		Mandatory	As per Aadhaar format
2	Amount to be Credited in Paise	Numeric	13		Mandatory	Amount to be in paise Left padded with zeros 0000000000300 for 3 Rupees for example
3	Unique Transaction Reference Number	Alphanumeric	13		Mandatory	Has to be unique for the user for the day
4	Beneficiaries Bank Identifier or IIN	Numeric	6		Optional	If this is provided, the APB system will send the transaction to the given bank. If not provided, it will use the mapper to resolve the bank IIN. If no mapper found, transaction will get rejected.
5	Payment Remark	Alphanumeric	25		Mandatory	Reason for payment

There will be some additional information that the department has provide to Sponsor Bank for every file of transactions that they transmit to the Sponsor Bank. They are

- The User Number given to the department by the Sponsor Bank
- The account that the Sponsor Bank can debit for the transfers and the authorization for the same based on the account rules (approved and authorized signatories).
- The Business Date/Value data for all the transactions.

Note: Aadhaar based payment pre supposes that the AADHAAR is linked to the Bank Account and Banks have updated the NPCI Mapper.

Annexure-V
Format for Sending payment Advice Based on Beneficiaries Aadhaar

1. Using ECS/NECS

S.No	Filed	Data Type	Length	Format	Mandatory/Optional	Description
1	Beneficiaries Bank MICR Code	Numeric	9	000000000	Mandatory	400002001 for SBI for example
2	Beneficiaries Bank Account Number	Alphanumeric	15		Mandatory	
3	Beneficiaries name	Alphanumeric	40			
4	Amount to be Credited	Numeric	13		Mandatory	Amount to be in paise Left padded with zeros 000000000300 for 3 Rupees for example
5	Unique Transaction Reference Number	Alphanumeric	13		Mandatory	Has to be unique for the user for the business day
6	Payment Remark	Alphanumeric	25		Mandatory	Reason for payment

There will be some additional information that the department has to provide to Sponsor Bank for every file of transactions that they transmit to the Sponsor Bank. They are

- The User Number given to the department by the Sponsor Bank
- The account that the Sponsor Bank can debit for the transfers and the authorization for the same based on the account rules (approved and authorized signatories).
- The Business Date/Value data for all the transactions.

2. Using NEFT

S.No	Filed	Data Type	Length	Format	Mandatory/Optional	Description
1	Beneficiaries Bank IFSC Code	Numeric	11	0000000000	Mandatory	ICIC00000007 for example
2	Beneficiaries Bank Account Number	Alphanumeric	15		Mandatory	
3	Beneficiaries name	Alphanumeric	40			
4	Amount to be Credited	Numeric	13		Mandatory	Amount to be in paise Left padded with zeros 0000000000300 for 3 Rupees for example
5	Unique Transaction Reference Number	Alphanumeric	13		Mandatory	Has to be unique for the user for the business day
6	Payment Remark	Alphanumeric	25		Mandatory	Reason for payment

There will be some additional information that the department has to provide to Sponsor Bank for every file of transactions that they transmit to the Sponsor Bank. They are

- The User Number given to the department by the Sponsor Bank
- The account that the Sponsor Bank can debit for the transfers and the authorization for the same based on the account rules (approved and authorized signatories).
- The Business Date/Value data for all the transactions.